

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

KONINKLIJKE PHILIPS N.V. and U.S.
PHILIPS CORPORATION,

Plaintiffs,

vs.

DIGITAL WORKS, INC., DIGITAL
WORKS, SLC, DIGITAL DEPOT, INC.,
MEDIA FAST LLC, ULTRA
ENTERTAINMENT, HIGH SPEED VIDEO,
SAVVI MARKETING LLC, MY DISC
FACTORY, XOCIALIZE, DISC COMPANY,
PERSONAL-FX, PROACTION MEDIA,
ALLEGRO MEDIA GROUP, VISUAL
ENTERTAINMENT INC., CHRISTIAN RATH,
TROY NIELSON, WILLIAM DIAZ, MARC
CARAMADRE, THOMAS INGOGLIA,
DUSTIN NIELSON, JEFF JOHNSON, and
DOES 1 THROUGH 10,

Defendants.

Case No.: 2:13-cv-1341-JAD-NJK

**Order Denying [#56] Ultra
Entertainment's Motion to Dismiss**

On September 11, 2013, Defendant Ultra Entertainment filed a Motion to Dismiss. Doc. 56. The motion appears to have been filed by Ultra's representative and not by counsel; it does not appear that Ultra is represented by counsel. No response to the motion has been filed.

"It is a longstanding rule that corporations and other unincorporated associations must appear in court through an attorney." *D-Beam Ltd. P'ship v. Roller Derby Skates, Inc.*, 366 F.3d 972, 973-74 (9th Cir. 2004) (citation and quotation marks omitted, second modification in original);

1 *Rowland v. California Men's Unit II Advisory Council*, 506 U.S. 194, 202 (1993). A court may
2 sanction a fictional defendant by striking its answer and directing that a default be entered against
3 that defendant when it fails to retain counsel to represent it in litigation. *See Galtieri- Carlson v.*
4 *Victoria M. Morton Enters., Inc.*, 2010 WL 3386473 (E.D.Cal. Aug. 26, 2010) (sanctioning
5 corporate defendants by striking their answer when they failed to retain alternate counsel after the
6 withdrawal of their original counsel); *Rojas v. Hawgs Seafood Bar, Inc.*, 2009 WL 1255538 (N.D.
7 Cal. May 5, 2009) ("When a corporation fails to retain counsel to represent it in an action, its answer
8 may be stricken and a default judgment entered against it"). As the Motion to Dismiss was not filed
9 by an attorney, it is a rogue document and shall be denied on that basis.

10 Ultra has also failed to include a memorandum of points and authorities in support of its
11 motion and has therefore not complied with Local Rule 7-2(a). Local Rule 7-2(d) states that "[t]he
12 failure of a moving party to file points and authorities in support of the motion shall constitute a
13 consent to the denial of the motion." Ultra has offered points but no authorities; indeed, the motion
14 reads more like an answer than a motion to dismiss. *See* Doc. 56. Therefore, the motion is denied
15 on this basis as well.

16 Accordingly, IT IS HEREBY ORDERED that Ultra Entertainment's Motion to Dismiss [#56]
17 **is DENIED;**

18 IT IS FURTHER ORDERED that Defendant Ultra Entertainment shall have up through and
19 including **December 31, 2013**, to retain counsel and have that counsel file an answer on its behalf.
20 **Ultra Entertainment is strongly cautioned that failure to retain counsel and have counsel file a**
21 **proper answer on its behalf by this deadline may result in the entry of default and a potential**
22 **default judgment entered against it.**

23 December 9, 2013.

24 
25 JENNIFER A. DORSEY
26 UNITED STATES DISTRICT JUDGE
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